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ABSTRACT

Since 1751 the age of 21 has been generally accepted as the age of legal majority in America. Since 1970, however, 42 States have lowered the age to 18 or 19 for most purposes, and the 26th Amendment to the Constitution lowered the age for voting in Federal elections to 18. The new statutes will have wide impact on legal affairs. In particular, the ability of young adults to make binding contracts and the legal responsibility parents have for their children will be significantly changed. Even though most secondary school students are under 18 and most school rules do not depend on the age of students, the new statutes will affect secondary school administrators in several ways. In many States, students over the age of majority will be able to establish a legal residence separate from their parents. Adult students will also have the right to view their school records and to prevent their parents from viewing many of them. In most cases school administrators will no longer be able to require parental consent or permission forms for students past the age of majority. Other areas of concern will undoubtedly become apparent as the courts rule on specific legal questions. (JG)

A Legal Memorandum

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THE CHANGING AGE OF MAJORITY

Few changes have been brought about by the process of state-by-state legislative action as rapidly as the reduction of the age of majority. Until 1970 few states permitted persons under 21 years of age to exercise many of the rights and privileges accorded to adults. A few special privileges were provided in recognition of society's interests or youths' demands--marriage, operation of motor vehicles, use of alcoholic beverages such as beer--but, for the most part, majority was set at 21 years of age.

In three short years much of this structure has been swept away by state legislation. At this writing, 42 states have lowered the age of majority to 18 or 19 years of age for most purposes. It is likely that most of the other states also will act in the near future.

Actually, there was nothing either sacred or inherently logical in establishing 21 as the appropriate age at which the law should recognize a person as being an adult. There was a recognized need to establish some point at which the full rights and responsibilities were extended, and the age of 21 was tacitly agreed upon. This apparently grew out of the Act of Parliament of the Province of Massachusetts Bay, which established 21 as the age for performing certain civic duties back in 1751. But the age of 21 for establishing majority goes back even further in Anglo-American legal history--at least to 1620 when the age for serving in the English Army had reached this level. This age had been rising for several centuries because of the increasing weight of armor.

Perhaps less clearly understood than the reason for establishing the age of majority at 21 are the reasons many states began reducing it suddenly after so many years. Some of those who sought the reduction did so on the basis that young people are maturing much sooner now, both mentally and physically. Others argued that the broad extension of education removed the reason for withholding full citizenship until 21. Finally, the fact of military conscription at age 18 gave impetus to the demand for reducing the age of majority accordingly.

This was certainly a factor in the adoption of the 26th Amendment to the Constitution of the United States which confers the right to vote upon all those 18 years of age. Adoption of this Amendment undoubtedly spurred the states to action as well, inasmuch as many were faced with state laws prohibiting the vote in state elections to those under 21, while youth of 18 could vote in federal elections. Elections in which candidates were running for both levels of office created difficult administrative problems for local government officials.

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Current Status

Whatever the cause, a substantial majority of the states has acted to reduce the age of majority completely or partially in the past three years. In 1970, Montana and Alaska reduced the age of majority to 19. The following year eight states lowered it to 18. In 1972, twenty more states reduced the age to 18, and two more to 19. In 1973, eleven reduced the required age to 18, including Montana and Iowa which lowered it from 19. Wyoming lowered it to 19. Some states have preferred to confer specific privileges upon youth at various ages rather than change the age of majority itself. Georgia and Kentucky originally followed this course as others are currently doing, notably Nebraska and New York.[1]

School administrators should know the age of majority in their own states. Other questions, however, are far less clear to them: what does it mean for my students? for the school? for me?

Some General Effects of Reduced Majority

The most important aspects of statutes establishing the age of majority have been the special privileges conferred and the limitations placed upon youth either to protect them against economic exploitation or to prevent them from taking actions for which the society believed they were not yet ready. Minors were accordingly prohibited from contracting, owning property, making wills, suing and being sued, or their capacity to engage in these activities was limited.

Even before the general reduction in the age of majority, many states had enacted statutes that altered these limitations in various ways. Most, for example, permitted minors to make contracts, but allowed them to repudiate them if they chose. Reducing the age of majority from 21 to 18 removes this protection from the young adult. Despite the changes, however, many merchants are still reluctant to sell to young people on an installment plan without a co-signer because they fear that courts may be unsympathetic to attempts to enforce the contract upon young and inexperienced adults. In cases like this, where the rights of other adults are also involved, statutory changes in the age of majority may have little effect.

Considerable variation has also existed with regard to the capacity of young people to own real estate, some states even setting different ages for males and females. Similar restrictions have been placed upon the capacity of minors to dispose of property by will, although in this case the age limits have often been much lower, in one case as low as 12 years.

One of the most important areas that state governments control and for which they have established minimum age requirements is the right to marry. Again, this is an area in which there has been considerable variation. Most states have established two age limits, one at which marriage is permitted only with parental consent and a higher age at which no consent is necessary.

Most of these subjects, and many others of importance to young people, are being affected by statutes lowering the age of majority. In some cases, however, reducing the age of majority will have no effect. This is clearly the case where an age specified in a statute is still lower than the age of majority. Age requirements for a driver's license are the commonest examples. In some cases, a

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1. *The Age of Majority*, Council of State Governments, Lexington, Ky., 1971; Updated, 1973.

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specified age above the age of majority may also be unaffected by the general change, but most legislatures have tried to make clear their intention to reduce the minimum age requirements for adult rights and responsibilities across the board.

Some of the new responsibilities involve the loss of protections previously afforded those regarded as minors by the law. To educators, these changes may be some of the most important aspects of the reduced age of majority laws, because young people will be exposed to a number of risks if they are not aware of them. To take only one example, parents will no longer be obligated to support children or be responsible for their debts beyond 18 years of age. In a few states young adults are even being held legally responsible for the support of their parents!

Most of the statutes do not directly affect school activities, however, and are not, therefore, of urgent concern to school administrators. There are a few areas which are of particular relevance to school administrators, or which affect the schools, and these warrant more detailed discussion.

Secondary School Concerns

Before discussing those areas of concern for secondary schools that may be affected by statutes reducing the age of majority, it is important to note the large number of subjects that will not be affected. First of all, most secondary school students are under 18 years of age, and no state has reduced the age of majority below that point. Even more important, however, is the fact that most school rules and regulations do not depend upon the age of the students for their validity.

School administrators have the right, and indeed the responsibility, to establish reasonable regulations for the governance of conduct in the school in order to assure an orderly educational program. These rules must be reasonable, of course, but can and should apply to all students regardless of age. Indeed, in many cases, regulations apply not only to students but to teachers and other personnel, as, for example, prohibitions against smoking in the classroom. Regulation of student use of automobiles is predicated on considerations of safety, or inadequacy of parking space, and need not take any account of a student's age.

It is only in certain areas, clearly prescribed by statute or common law, where the rights of the student as a citizen are involved, that the reduction in the age of majority is apt to affect the school administrator.

Residency - Generally, the eligibility of students to attend school in a particular district has been determined by the residence of the parent or legal guardian with whom he resides. A student could not usually establish residency by moving into the home of a district resident other than a parent or legal guardian, except where he has demonstrated his emancipation by earning his own living,[2] or, if female, by marriage. Reduction of the age of majority may be regarded by some states as automatic emancipation of all students attaining legal age. In Kansas, for example, a constitutional amendment passed in 1971 allows 18-year-olds to establish residency for the purpose of voting.

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2. Kidd v. Joint School District No. 2, 216 NW 499, Wisconsin (1927)

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In a case arising the following year in which a junior college sought tuition from students residing outside the district, a state court ruled that the constitutional amendment governed the issue of residence of all students of legal age, and even overruled a statute which indicated otherwise.[3] It seems likely that similar reasoning will lead to the determination that 18-year-old high school students also may establish their own residency. It should be noted, however, that residency is often established as of the date of school enrollment for the year. If so, the student seeking to establish residency would have to be of legal age at the beginning of the school year.

Student Records - There is considerable variation from state to state as to what records must be shown to parents of students upon demand, but the lowering of the age of majority to 18 may make it possible for students attaining this age to demand access to whatever records would be required to be shown to their parents. An adult student also may be able to prohibit the opening of any of his records to his parents that would not be equally available to any other citizen as a public record.

Sample Guideline for Local School Districts

STUDENT RECORDS

The issue concerning the collection, maintenance, and dissemination of student records is complex. Guidelines will soon be sent to school districts addressing this question. Such guidelines shall aid administrators in the formulation of school policies. One impact of the new legislation on student records that is now in effect, however, is that a pupil 18 years or older has the same right as his parent or guardian relative to the examination of his school records.

In view of the new legislation, the new adult shall be accorded the same rights and privileges as his parent or guardian relative to the review of his official school records.

From Guidelines prepared by Department of Education of Minnesota.

School administrators may not be able to require parental permissions, consents, and acknowledgments generally, such as the signing of report cards, for students who have attained legal age, if majority is interpreted as legal emancipation from parental control. It is possible, however, that a court might be persuaded that a certain degree of parental control continues to be reasonable so long as a student is residing in his parent's home and is, in fact, financially dependent upon the parent. The law has often been reluctant to extend rights much further than the acceptance of concomitant responsibilities.

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3. Bd. of Trustees of Colby Community Junior College v. Benton, 17th Jud. Dist. Kansas (Jan. 1972.)

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In all of these areas of concern as well as many others, like the use of alcoholic beverages and the right to enforce civil rights in a court of law, only two general statements can be made at this time. First, it is really too soon to know what the specific legal ramifications of a reduced legal age will be. The answers will come only with challenges in the courts and decisions by them. Second, whatever decisions do emerge are not likely to be consistent in all states and on every issue. It will likely take several years for consensus to develop on some of the more difficult issues. In the meantime, some general suggestions may be of help to the principal or other school administrator faced with the situation today.

North Carolina Statute

"The common law definition of minor insofar as it pertains to the age of the minor is hereby repealed and abrogated. A minor is any person who has not reached the age of eighteen years. All laws and classes of laws in conflict with the act are hereby repealed."

Chapters 585 and 1231, N.C. Laws of 1971

[This Act was followed by a clarifying statute amending a number of other laws.]

Conclusions and Recommendations

- State laws reducing the age of majority will have many effects upon the lives of young people, but most of them will not directly affect secondary school principals whose students are under 18 years of age and whose reasonable rules may be applied legitimately to all students, regardless of age.

- It would probably be desirable as an educational matter to seek the development of curriculum or written materials on the legal rights and responsibilities of persons coming of legal age, since this will occur for many shortly after, or even before, graduation, and will be of great importance to students in many ways.

- In some particular areas of concern, such as residency, release of student records, and securing of parental consent or acknowledgement, changes may be required for students of legal age. In such cases, new procedures will have to be reviewed by school counsel, and care will need to be exercised to assure not only that the adult student is accorded his full legal rights but that no unfair discriminations are made against minor students. In this connection, it is interesting to note the decision of some schools to grant the same privileges to minor students in the senior class as are required to be extended to their classmates of legal age.

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- In most states where the age of majority has been reduced, especially those in which it has been lowered to 18 years of age, appropriate state agencies have already prepared, or are preparing, guidelines for local school districts on the likely effect of, and the appropriate response to, the reduced legal age.[4] If your state has enacted such a law, but has not prepared any guidelines, you should urge the appropriate authorities to do so.

States Reducing the Age of Majority Since 1970

To 18

Arizona	Louisiana	Ohio
California	Maine	Oklahoma*
Colorado	Maryland	Oregon
Connecticut	Massachusetts*	Pennsylvania
Delaware	Michigan	Rhode Island
Florida	Minnesota	South Dakota
Georgia	Montana	Tennessee
Hawaii	Nevada	Texas
Idaho	New Hampshire	Vermont
Illinois	New Jersey	Virginia
Indiana	New Mexico	Washington
Iowa	North Carolina	West Virginia
Kansas	North Dakota	Wisconsin

To 19

Alaska
Nebraska*
Wyoming

Reduction to 18 for certain purposes

Kentucky
New York

*Age reduced for most, but not all, purposes.

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4. An excellent set has recently been published by the Department of Education of the State of Minnesota, 715 Capital Square, St. Paul, Minn. 55101.

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